

From the Desk of
Kenneth A Stein, M.D.
Report concerning care provided to: Jason Thomson

I, Kenneth A Stein, M.D. am a physician licensed to practice medicine in the State of Missouri since 1991. I am Board certified in Internal Medicine by the American Board of Internal Medicine. I am Board certified in Emergency Medicine by the American Board of Physician Specialties. I have subspecialty certification in Neurocritical Care by the United Council of Neurologic Subspecialties. I have practiced emergency medicine for 30 years and critical care medicine for 27 years.

In preparing this report I reviewed the following:

Medical records from:

St Vincent Hospital
Green Bay Metro EMS Report 2/10/10
Aurora Baycare Medical Center
Brown County Medical Examiner's report / Autopsy report

The complaint filed in this case

Interview of Dr Christopher Gerwing 2/11/2020 from
the Wisconsin Division of Criminal Investigation Case report
Statement by Rebecca Warren, RN

I have also viewed several videos related to Mr. Thomson that were recorded on February 10, 2020, including videos from St Vincent Hospital, Green Bay Police Department vehicle, Brown County Sheriff's Jail (Both inside the jail Arrest room and in the Sally Port).

Brief chronology:

In the late evening of February 9, 2020, Mr. Thomson was brought to the emergency department of St Vincent Hospital by EMS after having a witnessed seizure. Mr. Thomson has a history of epilepsy (seizures) and had been seen in the Emergency Department multiple times prior to this date. Mr. Thomson had a history of being non-compliant with the anti-seizure medicine phenytoin (Dilantin) that was prescribed to him. Mr. Thomson's serum level of phenytoin was below the detectable limit and Mr. Thomson was administered fosphenytoin (similar to phenytoin). Mr. Thomson was observed in the emergency department for over 2 hours. He had no complaints of having breathing difficulty. Per the note and statements by Dr. Chirstopher Gerwing, Discharge paperwork had been completed when Mr. Thomson became very agitated and aggressive when he had felt that a hospital ER Tech had rolled her eyes at him. Security was called and then Police were called.

Green Bay Police officers arrived and placed Mr. Thomson in a restraining device "The WRAP".

While Mr. Thomson was placed in "The Wrap" by the Green Bay Police, Mr. Thomson was overheard stating that he couldn't breathe. I have viewed the videos of Mr. Thomson while he was being placed into the Police vehicle while in "The Wrap", while he was being transported to jail, when he was brought into the jail, when he was placed back into a police vehicle while still in "The WRAP" and when he was removed from the Police vehicle and CPR was started. I did not find any audio recording on the videos.

From the time Mr. Thomson was first placed into the police vehicle it was apparent that Mr. Thomson was in physical distress and appeared to be having respiratory difficulty. From the videos it appears that Mr. Thomson was placed in an upright sitting position on the floor of the vehicle with his feet pointing towards one door. A police officer placed a helmet onto Mr. Thomson's head and the helmet was turned 90 degrees so that the side of the helmet covered Mr. Thomson's face. After 5 1/2 minutes Mr. Thomson was able to maneuver the helmet so that it no longer was covering his face and 2 minutes later, Mr. Thomson removed the helmet (without using his hands). By viewing the videos, I was able to detect that Mr. Thomson's respiratory rate was approximately 26 breaths/minute (The normal respiratory rate for an adult is 12-20 breathes/minute) and he was using accessory muscles to breathe.

Mr. Thomson was brought to the jail. From the video when he arrived at the jail, he was hypoactive (moving very little) and eventually his head was slumped forward. 3 minutes and 30 seconds after being brought into the jail the jail nurse arrived to evaluate Mr. Thomson. I have no record of any vital signs or pulse oximetry being obtained.

Nine minutes 44 seconds after arrival at the jail Mr. Thomson was carried back to a police vehicle while still in The WRAP.

Five minutes 27 seconds after being placed back into a police vehicle Mr. Thomson was removed from the police vehicle and was placed on the ground and The WRAP was removed. Two minutes 43 seconds after being removed from the police vehicle CPR was started. EMS was called and arrived approximately 10 minutes after CPR had been started. When EMS arrived the initial cardiac rhythm was Asystole (i.e. the heart was not beating). Advanced cardiac life support was initiated, and Mr. Thomson was transported to Aurora Baycare Medical Center. Despite efforts Mr. Thomson was unable to be resuscitated and was pronounced dead at 4:09 AM.

At autopsy it was found that Mr. Thomson's brain showed cerebral edema and his lungs showed pulmonary edema. These findings suggest that Mr. Thomson had a period of time prior to his death during which he was having hypoxia. Mr. Thomson's heart had findings suggestive of an undetected diagnosis of arrhythmogenic right ventricular dysplasia (ARVD) also known as arrhythmogenic right ventricular cardiomyopathy. The pathologist opinion was that Mr. Thomson most likely died from a cardiac arrhythmia.

Opinion:

Within a reasonable degree of medical probability, Mr. Thomson died as a consequence of respiratory difficulty which progressed to respiratory distress with hypoxemia and ultimately cardiac arrest. If a cardiac arrhythmia did occur prior to Mr. Thomson suffering cardiac arrest, within a reasonable degree of medical probability the arrhythmia either caused the respiratory distress and hypoxia or the respiratory distress and hypoxia caused the arrhythmia.

Within a reasonable degree of medical probability failure by the police officers and correctional officers to recognize that Mr. Thomson was having respiratory distress, failure to promptly remove The WRAP and failure to promptly call for a medical emergency or obtain an immediate medical evaluation for Mr. Thomson at a hospital was the major cause of his death.

Failure of Rebecca Warrant RN to recommend that The Wrap be immediately removed at the jail and her failure to call 911 for emergent transfer to the hospital was a major contributing cause of Mr. Thomson's death.

All my opinions noted above are stated to a reasonable degree of medical probability. I reserve the right to modify my opinions as expressed above based upon additional material that may become available to me. In addition, at time of deposition or trial if questions are asked of me that are not covered in this above report I may or may not have opinions beyond those addressed in this report.

A handwritten signature in black ink that reads "Kenneth A. Stein MD". The signature is fluid and cursive, with "Kenneth A." stacked above "Stein MD".

Kenneth A Stein M.D.
December 11, 2023

CURRICULUM VITAE

Kenneth Stein, M.D.,
Emergency Medicine, Critical Care & Internal Medicine Physician

14312 Aitken Hill Ct, St Louis, MO 63017

314-495-7009

www.er-md.com

kennystein1@gmail.com

CURRENT POSITION

Assistant Professor	1994 - Present
Division of Emergency Medicine	
St. Louis University School of Medicine	
St. Louis, MO	
Independent Medical Consultant	2023 - Present
Department of Mental Health	
State of Missouri	

BOARD CERTIFICATION, LICENSURE & OTHER CERTIFICATIONS

Internal Medicine	Board Certified 1992
American Board of Internal Medicine	Recertified 2003 & 2013
Emergency Medicine	Board Certified 2005
American Board of Physician Specialties	Recertified 2013
Neurocritical Care:	Subspecialty Certified
United Council for Neurologic Subspecialties	Since 2012
Medical License, State of Missouri	Since 1990
Advanced Trauma Life Support	Certified since 1990 Instructor 1997 - 2003 Instructor 2023-Present
Advanced Cardiac Life Support	Certified since 1988
Basic Life Support	Certified since 1988
Prior Certifications	
Advanced Stroke Life Support	Certified 2019
Emergency Neurological Life Support	Certified 2020
Pediatric Advanced Life Support, Provider	Certified 2004 & 2013

EXHIBIT A

JUNE 22, 2022

EDUCATION

Residency		
Senior Resident (PGY-3)		1990 - 1991
Department of Internal Medicine		
Washington University, Jewish Hospital		
St. Louis, MO		
Junior Resident and Intern (PGY 1 & 2)		1988 - 1990
Department of Internal Medicine		
University of Kentucky Medical Center		
Lexington, KY		
Medical School		
Doctor of Medicine		1984 - 1988
Vanderbilt University School of Medicine		
Nashville, TN		
Undergraduate		
B.S. with Honors, Biology		1981 - 1983
University of Oregon		
Eugene, OR		
University of Massachusetts		1979 - 1981
Amherst, MA		

PAST POSITIONS

Emergency Medicine Physician	2012 - 2021
Department of Emergency Medicine	
St. Luke's Hospital	
Chesterfield, MO	
Adjunct Assistant Clinical Professor	1994 - 2020
Emergency Medicine	
St. Louis University School of Medicine	
St. Louis, MO	
Critical Care Physician / Intensivist	2019 - 2020
Department of Critical Care Medicine	
St. Joseph's Hospitals	
St. Charles & Lake St. Louis, MO	
Critical Care Physician / Intensivist	2009 - 2019
Department of Critical Care Medicine	
St. Luke's Hospital	
Chesterfield, MO	

Critical Care Physician / Intensivist Department of Critical Care Medicine St. Luke's Des Peres Hospital Des Peres, MO	2010 - 2019
Critical Care Physician / Intensivist Department of Critical Care Medicine St. Anthony's Medical Center/Mercy South St. Louis, MO	1993 - 2019
Emergency Medicine Physician Department of Emergency Medicine St. Anthony's Medical Center St. Louis, MO	1992 - 2012
Emergency Medicine Physician Department of Emergency Medicine St. Clare Health Center Fenton, MO	2009 - 2010
Emergency Medicine Physician Department of Emergency Medicine St. Joseph's Hospital Kirkwood, MO	2008 - 2009
Student Health Physician Washington University Student Health Center St. Louis, MO	1992 - 1993
Emergency Medicine Physician DePaul Health Center Bridgeton, MO	1991 - 1992
Emergency Medicine Physician Barnes Hospital & Washington University Medical Center St. Louis, MO	1991 - 1992
Emergency Medicine Physician VA Hospital, Lexington, KY Mary-Chiles Hospital, Mt. Sterling, KY Marcum-Wallace Hospital, Irving, KY Grant County Hospital, Williamstown, KY Bourbon General Hospital, Paris, KY Meadowview Hospital, Maysville, KY	1989 - 1990
Emergency Medicine	1987

Senior Medical Student Elective
Middlemore Hospital, Auckland, New Zealand

TEACHING EXPERIENCE

Examinee Rater	2021 - Present
Emergency Medicine Oral Board Examination American Board of Physician Specialties	
Assistant Professor	1994 - Present
Division of Emergency Medicine St. Louis University Health Science Center, St. Louis, MO	
Clinical Instructor	1991 - 1992
Division of Emergency Medicine, Department of Surgery Barnes Hospital, Washington School of Medicine, St. Louis, MO	
Preceptor for third year medical students Washington University, St. Louis, MO	Spring 1991

PROFESSIONAL SOCIETY MEMBERSHIPS

American Association of Physician Specialties
Society of Critical Care Medicine
American College of Chest Physicians

PROFESSIONAL SERVICES & COMMITTEE MEMBERSHIPS

Emergency Medicine Board Exam
Blueprint and Exam Review Team
American Board of Physician Specialties

Pharmacy & Therapeutics Committee (previous member)
St. Anthony's Medical Center, St. Louis, MO

Pathology Review Committee (previous member)
St. Anthony's Medical Center, St. Louis, MO

Physicians Practice Council (previous member)
Department of Emergency Medicine
St. Anthony's Medical Center, St. Louis, MO

Pain Management Committee (previous member)
From time of Committee's formation until committee disbanded in 2004
St. Anthony's Medical Center, St. Louis, MO

Ad-Hoc Committee to review patient complaints regarding pain management
(previous member)

St. Anthony's Medical Center, St. Louis, MO

PROFESSIONAL EXPERIENCE AS A BIOMEDICAL / PHARMACEUTICAL CONSULTANT

Corporations I have previously consulted for include:

Merck
Pfizer
Wyeth
Genentech
Metrimed

Searle
Bayer
Bristol-Myers Squibb
bioMerieux

Gaen Healthcare Advisors
Malix Healthcare Development
Sanofi-Aventis
Astra-Zeneca
Perdue Pharma

PUBLICATIONS

"Effective Pain Management in Emergency Medicine."

Journal of Practical Pain Management.

Sept/Oct 2001

MEDICAL VOLUNTEER SERVICE

Midwest Medical Missions
Nicoya Peninsula, Costa Rica

January 2010

HONORARY SOCIETIES, HONORS AND AWARDS

Bachelor of Science with Honors, University of Oregon

Mensa Essay Competition, Second Place Award, U.S. Southeast Region

Oregon Achievers (University of Oregon)

Dean's List, University of Massachusetts

Alpha Lambda Delta Honor Society

PRESENTATIONS & LECTURES TO MEDICAL PROFESSIONALS

Geriatric Trauma
Presentation to Medical Staff
St Anthony's Medical Center
St Louis, MO June 2016

"Shock."
EMS Refresher Course
St. Louis, MO, Jan 2012.

"Pain Management: Update 2004."
Presentation at Trauma Grand Rounds
St. John's Mercy Medical Center, St. Louis, MO, Aug 2004.

"Pain Management: Update 2003."
Presentation to Physicians, St. Louis, MO, Jan 2003.

"Pain Management: Update 2002."
Presentation to Physicians, St. Louis, MO, Dec 2002.

"Pain Management: Update 2002."
Emergency Medicine & Critical Care Nurses Continuing Education Course
St. Anthony's Medical Center, St. Louis, MO, Nov 2002.

"Pain Management: Update 2002."
Grand Rounds to Medical Staff, Washington, MO, May 2002.

"Pain Management: Update 2002."
Presentation to Physicians, St. Louis, MO, May 2002.

"Pain Management: Update 2002."
Presentation to Physicians, St. Louis, MO, Apr 2002.

"Pain Management: Update 2002."
Presentation to Physicians, St. Louis, MO, Mar 2002.

"Pain Management: Update 2002."
Presentation to Physicians, St. Louis, MO, Feb 2002.

"Pain Management: Update 2002."
Grand Rounds to Medical Staff, Cape Girardeau, MO, Feb 2002.

"Infectious Disease in Emergency Medicine:
From Common Etiologies to Biologic Warfare."
St. Louis Emergency Physician Association, St. Louis, MO, Oct 2001.

"Infectious Disease in Emergency Medicine:
From Common Etiologies to Biologic Warfare."
Grand Rounds, Missouri Baptist Hospital, St. Louis, MO, Oct 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Grand Rounds, Washington Memorial Hospital, Potosi, MO, Oct 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Herrin, IL, Oct 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Carbondale, IL, Oct 2001.

"GERD (Gastroesophageal Reflux Disease): Complications and Treatment."
Presentation to Physicians, St. Louis, MO, Oct 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Staff Meeting, Department of Surgery, St. Anthony's Medical Center,
St. Louis, MO, Sept 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Grand Rounds, Department of Anesthesia, University of Arizona Medical Center,

Tucson, AZ, May 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Tucson, AZ, May 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Phoenix, AZ, May 2001.

"Pain Assessment, Pain Management & the JCAHO Pain Standards."
Education Project for Nurses & Nursing Assistants. Presentation automated
and placed on CD-ROM. Shown 20 times to over 1,000 staff members.
St. Anthony's Medical Center, St. Louis, MO, May 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Baltimore, MD, Apr 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Harrisburg, IL, Apr 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Mt. Vernon, IL, Apr 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Herrin, IL, Apr 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Carbondale, IL, Apr 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Physicians, Effingham, IL, Apr 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Presentation to Department of Internal Medicine, Indiana Hospital,
Johnstown, PA, Mar 2001.

"Pain Management and the JCAHO Pain Standards: Update 2001."
Multiple presentations to Physicians, House Staff, Pharmacists, etc.
Altoona, Johnstown & State College, PA, Mar 2001.

"Advances in the Medical Treatment of Acute Myocardial Infarction."
Presentation to Physicians, St. Louis, MO, Mar 2001.

"Antibiotic Therapy for Respiratory Tract Infections."
Presentation to Physicians, St. Louis, MO, Mar 2001.

"Pain Management & the JCAHO Pain Standards: Update 2001."
Department of Medicine, Scott Air Force Base, IL, Feb 2001.

"Pain Management in Emergency Medicine & the JCAHO Pain Standards."
Presentation to the St. Louis Emergency Physician Association, Clayton, MO, Feb 2001
"Antibiotic Therapy for Respiratory Tract Infections."
Presentation to Physicians, St. Louis, MO, Jan 2001.

"Antibiotic Therapy for Respiratory Tract Infections."
Presentation to Physicians, Creve Coeur, MO, Nov 2000.

"GERD (Gastroesophageal Reflux Disease): Symptoms and Treatments."
Presentation to Physicians, Manchester, MO, Nov 2000.

"GERD (Gastroesophageal Reflux Disease): Symptoms and Treatments."
Presentation to Physicians, Florissant, MO, Oct 2000.

"GERD (Gastroesophageal Reflux Disease): Emergency Medicine Considerations." Presentation to Department of Emergency Medicine, DePaul Health Center, St. Albans, MO, Oct 2000.

"GERD (Gastroesophageal Reflux Disease): Symptoms and Treatments."
Presentation to Physicians & Nurses, Florissant, MO, Oct 2000.

"GERD (Gastroesophageal Reflux Disease): Symptoms and Treatments."
Presentation to Physicians & Nurses, House Springs, MO, Oct 2000.

"Antibiotic Therapy for Respiratory Tract Infections."
Presentation to Physicians, Creve Coeur, MO, Sept 2000.

"Treating the Patient in Pain & the JCAHO Pain Standards: Update 2000."
Presentation to Physicians, Physician Assistants and Nurses, Cedar City, UT, Sept 2000.

"Treating the Patient in Pain & the JCAHO Pain Standards: Update 2000."
Presentation to Physicians, Physician Assistants and Nurses, St. George, UT, Sept 2000.

"GERD (Gastroesophageal Reflux Disease): Symptoms and Treatments."
Presentation to Physicians, Chesterfield, MO, Sept 2000.

"GERD (Gastroesophageal Reflux Disease): Symptoms and Treatments."
Presentation to Physicians, Chesterfield, MO, Aug 2000.

"Treating the Patient in Pain & the JCAHO Pain Standards: Update 2000."
Presentation to Physicians, Festus, MO, July 2000.

"New Therapies for Acute Coronary Syndromes."
Lecture to Physicians, St. Louis, MO, July 2000.

"Antibiotic Therapy for Respiratory Tract Infections."
Presentation to Physicians, Creve Coeur, MO, July 2000.

"Treating the Patient in Pain & the JCAHO Pain Standards: Update 2000."
Nine Presentations to Physicians, Physician Assistants and Nurses,
Salt Lake City, UT, June 2000.

"Treating the Patient in Pain & the JCAHO Pain Standards: Update 2000."
Four Presentations to Physicians, Physician Assistants and Nurses,
Las Vegas, NV, May 2000.

"Antibiotics & Resistance."
Lecture to Physicians, St. Louis, MO, May 2000.

"Medical Applications of Magnetic Fields."
Symposium on Alternative Health Care & the Geriatric Patient, Department of Geriatric
Medicine, St. Louis University School of Medicine, St. Louis, MO, Apr 2000.

"Treating the Patient in Pain & the JCAHO Pain Standards: Update 2000."
Fourteen Presentations to Physicians, Physician Assistants and Nurses,
Salt Lake City, UT, Mar 2000.

"Antibiotics & Resistance."
Lecture to Physicians, St. Louis, MO, Feb 2000.

"Treating the Patient in Pain."
Presentation to Nursing Staff, DePaul Medical Center, St. Louis, MO, Oct 1999.

"Treating the Patient in Pain."
Department of Internal Medicine, Forest Park Hospital, St. Louis, MO, Sept 1999.

"Treating the Patient in Pain."
Department of Internal Medicine, St. Luke's Hospital, St. Louis, MO, Sept 1999.

"Treating the Patient in Pain."
Department of Physical Medicine & Rehabilitation, Barnes-Jewish Hospital,
Washington University School of Medicine, St. Louis, MO, July 1999.

"Pain Syndromes: When a Chiropractor Should Consider Medical Referral."
Presented to Logan College of Chiropractic, St. Louis, MO, July 1999.

"Airways and Intubation."
Presented to Advanced Trauma Life Support Course, St. Louis University,
St. Louis, MO, Fall 1998.

"Updates on ACLS."
Presented to the Medical Staff, Heart Institute of Balatonfűred,
Balatonfűred, Hungary, July 1994.

"Care of the Patient with Acute Myocardial Infarction."
Presented to Medical Staff, General Hospital of Sopron,
Sopron, Hungary, Sept 1992.

"Health and the International Traveler."
Presented to the Department of Medicine, Jewish Hospital, St. Louis, MO, May 1991.

"Treatment of Right Ventricular Myocardial Infarction."
Presented to Medical Staff, St. Clair Medical Center, Moorehead, KY, July 1988.

Kenneth A Stein, M.D.
FEE SCHEDULE /AGREEMENT
As of June 9, 2023

1. SUMMARY of FEES

Consulting time: \$650/hour
Initial retainer (non-refundable): 3 hours @ \$650/hour = \$1,950

Deposition Appearance: \$3,200 for ½ day (0-4 hours) + preparation time
Testimony Time past 4 hours = \$800/hour

Trial Appearance via Zoom: \$3,200 for ½ day (0-4 hours) + preparation time
Testimony Time past 4 hours = \$800/hour

Trial Appearance In-Person: \$7,995 for ½ day (0-4 hours) + preparation time
(Includes travel time) Testimony Time past 4 hours = \$800/hour

This Agreement is made and entered into this _____ day of _____, 20____, by
and between Kenneth A. Stein, M.D., (hereinafter referred to as "Consultant"), and
_____, (hereinafter referred to as "Client").

2. SERVICES

In exchange for Consultant's services as a Consultant and/or expert witness, Client agrees to pay Consultant pursuant to the terms of this Agreement. Payment to Consultant is not dependent upon the findings rendered, or on the outcome of any legal action, mediation, arbitration, nor on any contractual agreement between Client and any other person or party. Client has had the opportunity to investigate and verify Consultant's credentials and agrees that Consultant is qualified to perform the services described in this contract.

The manner in which the services are to be performed, and the specific hours to be worked by Consultant shall be determined by Consultant. Client will rely on Consultant to work as many hours as may be reasonably necessary to fulfill Consultant's obligations under this Agreement.

3. COMPENSATION

Client will pay Consultant for consulting time including but not limited to chart review, determination of merit, report writing, discussion, research, and associated activities.

Consulting time will be billed at a rate of \$650 per hour.

A non-refundable retainer of \$1,950 (3 hours at @ \$650/hour) is required prior to commencing initial record review.

Any time spent related to the case or project which is beyond the scope of an initial free telephone consultation will be considered billable time. Reasonable estimates of time to be spent working on any aspect of the case will be provided upon request.

4. DEPOSITIONS AND TRIAL TESTIMONY/APPEARANCES

Depositions, trial testimony or other legal testimony will be billed as follows:

Deposition Appearance in the St Louis area or online:

Half day = 0 - 4 hours	\$3,200 for a half day + preparation
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Deposition time over 4 hours from the anticipated start of deposition is billed at **\$800/hour**
(If a lunch break is taken during the deposition, lunch break time will not be billed).

For depositions that take place in the St Louis area but outside of Chesterfield, MO there will be a travel fee of \$175.

Trial Appearance in person

Half day = 0 - 4 hours:	\$7,995 for a half day + preparation & travel expenses
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Any testimony time over 4 hours from the anticipated start of testimony is billed at **\$800/hour**
(If a lunch break is taken during testimony, lunch break time will not be billed).

Online Trial Testimony will be billed the same as online deposition testimony:

Half day = 0 - 4 hours	\$3,200 for a half day + preparation
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Testimony time over 4 hours from the anticipated start of testimony is billed at **\$800/hour**
(If a lunch break is taken during the testimony, lunch break time will not be billed).

Payment prior to deposition or appearance at trial will be required as described below.

Deposition Appearance:

Client and Consultant will discuss available dates for a deposition to be taken.
Consultant will need to approve the date, time, and location of the deposition.

Once Client and Consultant agree upon a deposition date a non-refundable payment of \$1,600 (50% of the deposition appearance fee) will need to be received within 7 calendar days (i.e., within 7 days from the date when Consultant informs Client that he agrees to be available for deposition on a given date). If payment is not received within 7 days Consultant will no longer reserve the agreed upon date and time.

Payment of the remaining non-refundable 50% of the deposition appearance fee (\$1,600), as well as payment for deposition preparation and travel must be received by Consultant's office 1 calendar month prior to the date of deposition. If opposing counsel is not willing to advance pay deposition appearance fee, then client will need to pay this fee. Client can then arrange with opposing counsel to be reimbursed for this amount.

If the deposition is canceled or rescheduled, then the amount paid for preparation not yet done (and travel time) will be refunded; however, the fee paid to reserve the original deposition date is

non-refundable. If deposition is rescheduled, there will be an additional appearance fee for the new date.

Appearance at trial:

When client requests for Consultant to be present at trial for a given date or dates, a non-refundable payment of \$2,000 will need to be received within 7 days (i.e., within 7 days from the date when Consultant informs Client that he will be able to attend trial).

Consultant will not reserve this date (or dates) on his calendar if this payment is not received. This payment will be applied to the invoice for trial appearance.

One calendar month prior to the date of travel to trial, Payment of \$5,995 as well as payment for preparation, lodging, travel related expenses, etc. must be received by Consultant.

It is acknowledged that Consultant will not be deposed or provide expert testimony if any invoices and/or retainer fees have not been paid at least 1 calendar month prior to said depositions, court appearances, or other legal testimony (or 1 calendar month prior to date of travel if testimony is to occur outside of the St Louis area). If Consultant is requested to be present at trial for time beyond what was initially requested, additional payment will need to be paid immediately via PayPal, Venmo or Zelle at the rate of \$7,995 for a half day of testimony, with any testimony time over 4 hours from the anticipated start of testimony billed at \$800 per hour.

If trial is cancelled, rescheduled, or delayed less than 1 month prior to the scheduled date of travel to trial testimony, \$4,000 (50%) of the trial appearance fee will be refunded.

Payment for preparation that has already been done will not be refunded. Payment for preparation not yet done will be refunded. Any travel expenses that Consultant has accrued are non-refundable. If deposition or trial are rescheduled, an additional payment will be required to pay for appearance at the newly scheduled deposition or trial.

If Consultant is unable to be present at trial, then trial testimony may need to be arranged via live video feed into the courtroom (via Zoom,etc.) or by pre-recorded video-taped testimony.

Client recognizes that Consultant's schedule may change. If Consultant's schedule changes such that he will be unable to attend a scheduled deposition or trial, then the deposition or trial appearance fee will be refundable.

Payments should be made payable to/ Sent to

Kenneth A Stein, M.D.

14312 Aitken Hill Ct
Chesterfield, MO 63017

Payment may also be made online via Zelle, Venmo or PayPal. Contact me for details.

IMPORTANT:

Envelope should be marked **No Signature Required.**

Please write the Invoice number, name of the case and name of the attorney & firm on the check. Please send an email to: kennystein1@gmail.com to let me know when payment has been sent.

4. EXPENSES

Client is responsible for paying all fees and expenses including activities in response to discovery efforts by other parties (unless the other parties agree to pay these fees and expenses). This includes payment for time collecting/preparing materials, etc. that may be requested by opposing counsel. Consultant shall be entitled to prepayment from Client for all out-of-pocket expenses including but not limited to lodging, meals, car rental, airfare, photography, audio/visual aids, materials, electronic research fees, and couriers. If Consultant is driving his own vehicle, mileage will be billed to client at the current IRS allowance.

5. TERMS

Retainers will be held and applied to the last invoice. This retainer applies to work conducted in Consultant's geographic area. See Section 4 for off-site retainer requirements. After an initial review of materials, Consultant may request payment be received before additional work is done.

This Agreement contains the entire Agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties.

Payment is due from Client within 15 days of the invoice. Interest shall accrue to any delinquent balance at 1.5 percent per month. Client shall pay any and all collection costs incurred in connection with the collection of the account, including but not limited to court costs and legal fees.

Either party through written notice to the other party may terminate this Agreement at any time. However, the terms of the Agreement shall remain in effect until all obligations outlined in this Agreement are fulfilled.

Client agrees to indemnify Consultant and hold consultant harmless.

6. DISPUTES

The parties agree that any action that is required to be filed to enforce the terms of this Agreement will be filed in St. Louis County, Missouri. The laws of Missouri shall govern all actions arising out of this Agreement. Any modifications to the above terms must be agreed upon by all parties in writing.

CLIENT _____

DATE _____

CONSULTANT _____

DATE _____

Kenneth A Stein, M.D.
List of Expert Testimony
January 2019 – November 11, 2023

Depositions

Depositions in 2019

- 1: Guttman v Butcher, et al
State of New Mexico
County of Dona Ana
Third Judicial District
Index No. D-307-CV-2017-01971
- 2: Dieguez v Marin, et al
In The Circuit Court Of The 11th Judicial Circuit
In And For Miami-Dade County, Florida
Case No. 16-026349 CA 06
- 3: Diaz Casillas v Doctors' Center Hospital San Juan, Inc., et al
In The United States District Court
For The District Of Puerto Rico
Civil Action No. 17-1152
- 4: McKeeney (on Behalf of Goodman Estate) v Barwick., et al
In The Circuit Court For Baltimore County, Maryland
Case No. 03-C-17-012589
- 5: Allen v Central Iowa Hospital Corporation et al
In The Iowa District Court for Polk County
Law No. LACL139897
- 6: Demaris v Warren Scott Lafferty, M.D.
In The Circuit Court of Washington County
Arkansas Civil Division
No. 17-2905-1
- 7: Arbuckle v Holmes Regional Medical Center
The Circuit Court of the Eighteenth Judicial Circuit
In and For Brevard County, Florida
Case No.: 05-2016-CA-031577-XXXX-XX
- 8: Cielens v Redd et al
In The Circuit Court Of The County Of Hamilton
State Of Tennessee
No. 16C1310
Division 1

Exhibit C

Kenneth A Stein, M.D.
List of Expert Testimony
January 2019 – November 11, 2023

9: Janelle v Flowers
In The Circuit Of The Seventh Judicial Circuit
In And For Volusia County, Florida
Cause No. 2017-CA-032167-CICI

10: Wellhausen v Patel
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Case No: 2018 CA 000594

11: Bethany v Saint Francis Hospital-Bartlett, Inc. et al
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2: Templemire v Hickman et al
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Eighteenth Judicial Circuit
Case No. 18PT-CC00189

3: Orley Martin v Freeman Health
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Case No. 17AO-CC00297

4: Hoskins v Emergency OK
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5: Tonge v Hospital Doctors Center San Juan, Inc. et al
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- 6: Gallegos v Board of County Commissioners of Valencia County
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- 7: Provencio v Valencia County
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Case No.: D-1314-CV-2018-00759

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- 8: Foster v Harris et al
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- 9: Paasch v B&B Cargo, Inc., et al
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- 10: Cintron (Executor for Nieves) v Hospital Comunitario El Buen Samaritano et al
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Civil No.: 19-01850 (PAD)

- 11: Newsome v Pikeville Medical Center, Inc.
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- 12: Torres v Ryder Memorial Hospital, Inc et al
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14: Payne v Delaware Neurosurgical Group et al
Case : N19C-12-032 CEB
In The Superior Court
Of the State of Delaware

15: Conklin v Banner Health et al
Case No. CV2015-002965
In The Superior Court of The State of Arizona
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16: Rayne (executor for Caple) v Van Buren H.M.A.
Case NO. 17CV-18-120
In The Circuit Court of Crawford County, Arkansas
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17: Casale v The United States of America
Case NO: 1:20-cv-00526 SWS-MLC
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18: Cintron (Family of Nieves Guzman, Ramon)
v Hospital Comunitario El Buen Samaritano, Inc. et al
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21: Offord v Okenfuss
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22: Moody v Hillis, M.D.
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In The Circuit Court of Sebastian County, Arkansas
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23: Melton v Paslay, M.D.
Case NO. CT-004408-17 Division II
In The Thirtieth Judicial District at Memphis
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24: Long v Mayer et al
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1: Sandra Garrett, et al. vs. Our Lady of the Lake Hospital, Inc., et al
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2: Valenzuela Heirs and Successors-in-Interest for Rodriguez, Maria (Deceased)
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- 3: Hartsell, James v Willis-Knighton Medical Center South, et al
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- 4: Graham, Selma and Jarrett, Reginald
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Western District of Tennessee
- 5: Trahan, Ann as representative of Seale, Ted Walton v
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- 6: Baker, William v Gardner M.D, Matthew et al
Case No. 2018 L 244
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- 7: Newsome, Frank administrator for Newsome, Rita Pauline v
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Case No. 19-CI-00357
Pike Circuit Court Division II
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- 8: Potts, Leonard as Personal Representative of
the Estate of Ledbetter, Katrina v Christiana Care Health Services
C.A. No. N21C-02-065 SKR
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- 9: Gant, Linda Lou as Administrator for Gant, Bobbie Carroll
v. St Thomas Stones River Hospital, LLC
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- 10: Imm, Joshua v Gibbons, Michael T et al
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- 11: Costa, Madeline v Moses, Dusty et al
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- 12: Frazier, Eugene v Disney, Jere M MD et al
No D-202-CV-2021-03218
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- 13: Ramos, Renee as personal Representative for Lucero, Maria v Lovelace Health System
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- 14: Torres Rios, Diana I. on behalf of Ortiz Torres, Carlos I. (Ortiz, Negron, Carlos Ivan = Patient) v Dorado Health et al
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- 15: Diaz, Zaida (representative for Aleman Diaz, Alfredo) et al v Hospital Menonita et al
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- 16: Munoz, Norma Executrix of the Estate of Munoz, Reuben v Jersey City Medical Center et al
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- 1: Clovis, Samuel v Unitypoint Health et al
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- 2: Sifford v Bell, Marsh, Gwartney et al
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- 3: Harrell (Successor)/Fields (Deceased) v Woodland Care Center et al
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- 4: Madison v University of Chicago et al
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- 5: Hawkins (Representative of the Estate of Peggy Robinson
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- 6: Sandoval (Executor)/ Davila (Deceased)
v Mennonite General Hospital, et al
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- 7: Cranford v Lorio MD et al
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- 8: Jester v Seffense et al
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- 9: Gumm v Frazier, ACPN et al
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- 10: Swain Administratrix of the Estate of Betty Ridner
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- 1: Porter v Grenkoski
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- 2: McKeeney (on Behalf of Goodman Estate) v Barwick., et al
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- 3: Macrina v RWJ Barnabas Health et al
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- 1: Foster v Harris et al
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- 2: Martin v Freeman
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- 1: Trahan, Ann as representative of Seale, Ted Walton v Delta Regional Medical Center et al
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- 2: Vermilyea, Teresa as wrongful death beneficiary of Vermilyea, Randy v Singing River Health System et al
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3: Polanco, Jose v Kuschner, Zachary, M.D. et al
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1: Moody v Hillis, M.D.
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